



November 3, 2000

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A LIMITED LIABILITY PARTNERSHIP

Assistant Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Non-Provisional Patent Application No. 09/237,183
Filed: January 26, 1999
For: **Nucleic Acid Molecules and Other Molecules Associated with
the Sucrose Pathway**
Inventors: Nordine CHEIKH, *et al.*
Our Ref: 04983.0015.00US01/38-21(15089)B

Sir:

Transmitted herewith for appropriate action by the U.S. Patent and Trademark Office (PTO) is the following document:

1. Response to Restriction Requirement; and
2. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of this document, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038. A duplicate copy of this letter is enclosed.

Respectfully submitted,

M. Todd Rands (Reg. No. 46,249)
June E. Cohan (Reg. No. 43,741)
David R. Marsh (Reg. No. 41,408)

Enclosure

#7
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 07 2000

In re application of:

CHEIKH *et al.*

Appln. No.: 09/273,183^{237,183}

Filed: January 26, 1999

For: Nucleic Acid Molecules and Other
Molecules Associated with the
Sucrose Pathway



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Art Unit: 1638

Examiner: G. Benzion

Atty. Docket: 04983.0015.00US01
38-21(15089)B

Response to Restriction Requirement

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In the Office Action mailed October 4, 2000, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 1-2, drawn to a substantially purified nucleic acid molecule that encodes a maize or a soybean enzyme or fragment thereof, classified in class 536, subclass 23.1, 23.5, and 24.3, class 435, subclass 6, 69.1, 320.1, 240.1, and 252.33;

Group II: Claims 3-4, drawn to a substantially purified maize or soybean enzyme or fragment thereof classified in class 435, subclass 183;

Group III: Claims 5-6, drawn to a transformed plant having an exogenous promoter which functions in plant cells to cause the production of a mRNA of structural nucleic acid molecule classified in 800, subclass 298.

Applicants respectfully traverse the restriction requirement, and provisionally elect the claims of Group I (claims 1-2) for further prosecution.

Applicants submit that the complete examination of the application would be most expeditiously handled by treating all of the pending claims as a single entity. As Section 803 of the MPEP states, “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” It is respectfully submitted that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. No serious burden is created when a simultaneous computerized search for the nucleic acids of Group I and the transformed plant used in Group III is run, for example. A single search may be run, for example, in conjunction with databases such as those available at <http://www.ncbi.nlm.nih>. Rather, a serious burden would arise if the application were restricted.

Based on the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claims 1-2).

The Office Action further requires that no more than 10 specific nucleotide sequences be specified for examination. In view of Applicants' provisional election of Group I, and in the event that the restriction requirement is made final, it is hereby requested that SEQ ID NOS: 11, 446, 935, 1108, 2042, 2166, 2252, 2644, 2681, 2753, be examined in this application.

However, the election of the above sequences is made with traverse. The Examiner's restriction to only 10 sequences is improper. The examination of more than 10 sequences for the

polynucleotides of claims 1 and 2 would not present an undue burden due to interrelationship between the sequences.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicant's undersigned representative at (202) 383-6799.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038.

Respectfully submitted,



M. Todd Rands (Reg. No. 46,249)

June E. Cohan (Reg. No. 43,741)

David R. Marsh (Reg. No. 41,408)

Date: November 3, 2000

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